

UNITED STATES DISTRICT COURT

Eastern District of New York

UNITED STATES OF AMERICA
- v -
Nancy Marks

Presiding Judge: **Joanna Seybert, Senior U.S.D.J.**
Case No(s).: **23-cr-0197-JS-AYS**
Date: **10/5/2023**
Start Time: **3:13 PM** Total Time: **30 mins.**

MINUTE ENTRY FOR A CRIMINAL PROCEEDING

SEALED PROCEEDING: ☐ Yes ☒ No

I. APPEARANCES:

Defendant (# 2): **Nancy Marks**

☒ Present ☐ Not Present ☒ In Custody ☐ On Bond ☒ Surrendered

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Defendant (# _____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Government: **Anthony Bagnuola, Ryan Harris, Laura Zuckerwise, Jacob Steiner, John Taddei**

Pretrial/Probation: **Amanda Sanchez**

Interpreter: _____ Language: _____

☐ See Additional Appearances page.

Counsel: **Raymond Parini and Maureen Hoerger**

☒ Retained ☐ Federal Defender ☐ CJA ☐ _____

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐ _____

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐ _____

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐ _____

Court Reporter: **Kristi Cruz**

FTR Time: _____

Courtroom Deputy: **Eric L. Russo**

II. PROCEEDINGS HELD:

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> In-Person | <input checked="" type="checkbox"/> Arraignment | <input type="checkbox"/> Evidentiary Hearing | <input checked="" type="checkbox"/> Plea Hearing |
| <input type="checkbox"/> By Telephone | <input checked="" type="checkbox"/> Bond Hearing | <input type="checkbox"/> Fatigo Hearing | <input type="checkbox"/> Sentencing/Re-Sentencing |
| | <input type="checkbox"/> Curcio Hearing | <input checked="" type="checkbox"/> Initial Appearance | <input type="checkbox"/> Status/Pre-Trial Conference |
| | <input type="checkbox"/> Detention Hearing | <input type="checkbox"/> Motion Hearing | |

☐ Other Proceeding: _____

III. PROCEEDINGS SUMMARY:

- ☒ Arraignment held regarding count one (1) of the single-count Information filed on 10/5/2023.
- ☒ Defendant 2 initial appearance before this Court.
- ☒ Defendant 2 waived Indictment. Waiver(s) executed.
- ☒ Defendant 2 waived the public reading of the charging instrument.
- ☐ The Court read the charges outlined in the charging instrument and the defendant(s) acknowledged the charges.
- ☒ Defendant 2 entered a plea of **NOT GUILTY** as to all counts of the charging instrument.
- ☒ The Government was advised and acknowledged its obligation under **Rule 5(f) of the F.R.Cr.P.** and the **Due Process Protections Act**. The Court will issue a written order with further details.
- ☐ Defendant _____ waived Speedy Trial from _____. (Excludable Code: _____)
- ☐ Defendant _____ did not waive Speedy Trial.
- ☐ Speedy Trial for Defendant _____ waived from _____ by order of the Court. (Excludable Code: _____)
- ☐ The Court deems (or previously deemed) this case complex.
- ☐ Speedy Trial for Defendant _____ is waived pursuant to **18 U.S.C. § 3161(h)(7)(B)(ii)**. (Excludable Code: **XT**)
- ☐ See Section V of this minute entry (page 5) for additional details and/or rulings.

- ☐ Curcio Hearing held.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ The defendant was informed of the potential dangers arising from any conflicts of interest with current defense counsel.
 - ☐ The defendant acknowledged and waived any potential conflicts of interest and wishes to proceed with current defense counsel.
 - ☐ The defendant wishes to relieve current defense counsel and:
 - ☐ retain new counsel.
 - ☐ Defendant must retain new counsel by _____; or within _____ of this hearing.
 - ☐ have new counsel appointed by the Court.
 - ☐ The defendant completed and filed a CJA 23 Financial Affidavit for the Court's review.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Status/Pre-Trial Conference held regarding _____.
- ☐ This was an initial appearance before this Court by Defendant _____.
 - ☐ The parties advised the Court of the status of the case.
 - ☐ Defendant _____ waived Speedy Trial from _____. (*Excludable Code: _____*)
 - ☐ Defendant _____ did not waive Speedy Trial.
 - ☐ Speedy Trial for Defendant _____ waived from _____ by order of the Court. (*Excludable Code: _____*)
 - ☐ The Court deems (or previously deemed) this case complex.
 - ☐ Speedy Trial for Defendant _____ is waived pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii). (*Excludable Code: XT*)
 - ☐ The following briefing schedule was set:
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ The parties were directed to file a proposed briefing schedule for this Court's approval on or before _____.
 - ☐ The Court deems (or previously deemed) this case trial ready.
 - ☐ The Court set the following pre-trial submission schedule:
 - ☐ All 3500 material and 404(b) evidence shall be turned over by: _____.
 - ☐ Motions in Limine shall be filed by: _____.
 - ☐ Oppositions to Motions in Limine due by: _____.
 - ☐ Replies to Motions in Limine due by: _____.
 - ☐ Proposed Voir Dire questions and case summary due by: _____.
 - ☐ Proposed exhibits and witness list due by: _____.
 - ☐ Requests to Charge and proposed Verdict Sheets: _____.
 - ☐ The Court will enter a separate order outlining the pre-trial submission schedule.
 - ☐ The parties are to ensure courtesy copies of their submissions (outlined above) are promptly provided to Chambers. (**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Evidentiary/Motion Hearing held regarding _____.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ Witness(es) were called ☐ for the Government; ☐ for the defendant(s).
 - ☐ Exhibits were entered into evidence.
 - ☐ The Court made the following ruling(s): ☐ Motion granted; ☐ Motion denied; ☐ Motion granted, in part, and denied, in part.
 - ☐ _____
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
- ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.

- ☒ Plea Hearing held as to count(s) count one (1) of the single-count Information filed on 10/5/2023.
- ☒ The defendant was informed of the constitutional rights being waived and any potential consequences of pleading guilty.
 - ☒ The defendant withdrew previously entered not guilty plea and entered a plea of GUILTY to the above referenced count(s).
 - ☒ Court found that there is a factual basis for the plea and accepted the defendant's plea of guilty.
 - ☐ An Order of Forfeiture was executed.
 - ☒ The Conviction Notification Form was executed and sent to the U.S. Probation Department.
 - ☐ The parties waived the preparation of the Presentence Investigation Report.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Fatico Hearing held.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ Witness(es) were called ☐ for the Government; ☐ for the defendant(s).
 - ☐ Exhibits were entered into evidence.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Sentencing/Re-Sentencing held as to count(s) _____.
- ☐ The parties advised the Court that there are no objections to the Presentence Investigation Report.
 - ☐ The parties outlined their objections to the Presentence Investigation Report on the record.
 - ☐ The Court adopted the Presentence Investigation Report without change.
 - ☐ The Court outlined changes to the Presentence Investigation Report on the record.
 - ☐ Statements were heard from ☐ defense counsel; ☐ the defendant; ☐ the Government; ☐ the victim(s); ☐ others.
 - ☐ The defendant was sentenced to IMPRISONMENT for a total term of _____.
 - ☐ Upon release, the defendant shall be on SUPERVISED RELEASE for a total term of _____.
 - ☐ The defendant shall comply with the standard conditions of supervision (to be outlined in the judgment).
 - ☐ The defendant shall comply with the special conditions of supervision ordered by the Court (to be outlined in the judgment).
 - ☐ The Court did not impose a term of Supervised Release.
 - ☐ The defendant was sentenced to PROBATION for a total term of _____.
 - ☐ The defendant shall comply with the standard conditions of supervision (to be outlined in the judgment).
 - ☐ The defendant shall comply with the special conditions of supervision ordered by the Court (to be outlined in the judgment).
 - ☐ The defendant must pay the following criminal monetary penalties:
 - ☐ RESTITUTION in the amount of \$ _____.
 - ☐ An Order of Restitution was executed.
 - ☐ A FINE in the amount of \$ _____.
 - ☐ A SPECIAL ASSESSMENT fine in the amount of \$ _____.
 - ☐ An AVAA ASSESSMENT fine in the amount of \$ _____.
 - ☐ A JVTA ASSESSMENT fine in the amount of \$ _____.
 - ☐ The interest requirement on any of the criminal monetary penalties:
 - ☐ was ordered on the amounts of more than \$2,500.00.
 - ☐ was modified, as stated on the record.
 - ☐ was waived/not ordered/not applicable.
 - ☐ Restitution ☐ was not ordered or not applicable; ☐ was paid in full prior to sentencing.
 - ☐ A fine and/or other assessment ☐ was not ordered or not applicable; ☐ was paid in full prior to sentencing.
 - ☐ The determination of Restitution and/or a fine was deferred pending further proceedings or by motion to the Court.
 - ☐ All other conditions shall remain in effect as previously ordered and outlined in the judgment(s) dated _____.
 - ☐ The Order of Forfeiture dated _____ was adopted as the Final Order of Forfeiture.
 - ☐ A Final Order of Forfeiture was executed.
 - ☐ The defendant's right to appeal the Court's sentence
 - ☐ was waived pursuant to the Plea Agreement.
 - ☐ was not waived and the defendant can file an appeal within **fourteen (14) days** of the date the judgment is entered.
 - ☐ All open counts in the charging instrument(s) were dismissed on the motion of the United States.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.

IV. RULINGS MADE REGARDING DEFENDANT RELEASE STATUS:

- ☒ Bond Hearing/Detention Hearing held.
- ☐ Defendant _____ did not present a bond application to the Court.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
 - ☒ The bond application/modification was granted as to Defendant 2.
 - ☒ An Order Setting Conditions of Release and Bond was executed as to Defendant 2.
 - ☐ The conditions of release were modified as stated on the record as to Defendant _____.
 - ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The bond application/modification was denied as to Defendant _____.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ The Government moved for immediate detention of Defendant _____.
 - ☐ The motion was ☐ granted; ☐ denied; ☐ granted, in part, and denied, in part.
 - ☐ An Arrest Warrant was executed as to Defendant _____.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The decision regarding the bond or detention application was reserved.
 - ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
 - ☐ A temporary Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.

For a defendant currently IN-CUSTODY:

- ☐ Defendant _____ remain(s) in custody.
- ☐ The following order(s) was/were executed and shall be forwarded to the U.S. Marshals Service and/or the Federal Bureau of Prisons:
 - ☐ A Medical Evaluation Order as to Defendant _____.
 - ☐ A Competency Order as to Defendant _____.
 - ☐ A Force Order as to Defendant _____.
- ☐ The defendant, being sentenced to time served (*time in-custody prior to sentencing/re-sentencing*), shall be released, forthwith.
 - ☐ A Time Served Order was executed and submitted to the U.S. Marshals Service.
 - ☐ Upon release, the defendant will be under supervision of the U.S. Probation Department until the completion of the ordered term of Supervised Release.
 - ☐ Upon release, the defendant will not serve a term of Supervised Release.

For a defendant currently AT LIBERTY:

- ☐ Defendant _____ remain(s) on bond.
- ☐ The defendant, being sentenced to a term of imprisonment, shall be immediately remanded to the custody of the U.S. Marshals Service and/or the Federal Bureau of Prisons.
- ☐ The defendant, being sentenced to a term of imprisonment, shall surrender for the service of the sentence before **2:00 PM on** _____ at the institution designated by the Federal Bureau of Prisons. The defendant will remain at liberty and under supervision of the Pretrial Services Department until the surrender date.
 - ☐ The U.S. Marshals Voluntary Surrender form was executed.
 - ☐ Motions to extend the surrender date must be made at least a **thirty (30) days** prior to the surrender date.
 - ☐ The defendant was advised that there will be no extensions of the surrender date.
- ☐ The defendant, being sentenced to a term of Probation, will remain at liberty and under supervision of the U.S. Probation Department until the completion of the ordered term of Probation.
- ☐ The defendant, being sentenced to time served (*time in-custody prior to being released*), shall remain at liberty and under supervision of the U.S. Probation Department until the completion of the ordered term of Supervised Release.
- ☐ The defendant, being sentenced to time served (*time in-custody prior to being released as well as time under supervision*), shall be released from all conditions of supervision, forthwith.

V. OTHER RULINGS MADE DURING THE PROCEEDINGS:

- ☐ The record of this proceeding was deemed sealed. Transcripts of this proceeding can be made available to the Court, the defendant(s), defense counsel, and the Government **ONLY**. Any other non-party who wishes to get a copy of the transcripts must file a written request to the Court for consideration.

☐**VI. FURTHER PROCEEDINGS SET:**

- ☐ Bond Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Detention Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Curcio Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Status/Pre-Trial Conf.: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Evidentiary Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Motion Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Jury Selection: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Jury Trial: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Plea Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Fatico Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☒ Sentencing/Re-Sentencing: 4/12/2024 at 1:30 PM before Judge Joanna Seybert (**In Courtroom 1030.**), as to Defendant 2.

- ☒ Parties are directed to file their sentencing memorandums by 4/5/2024. Once the memorandums are filed, the parties are to ensure courtesy copies of their submissions are promptly provided to Chambers. (**Note:** Attaching the documents to an e-mail does not satisfy this directive.) If a party chooses to proceed without filing a sentencing memorandum, a letter to the Court advising as such must be filed on said due date, in lieu of the memorandum.

- ☐ Further instructions regarding the proceeding(s) set:

- ☐ The Court ordered the proceeding(s) to be held via the Court's teleconferencing system. Parties are directed to dial the following telephone number at the designated time: **877-336-1839, access code 7231185.**

☐

- ☐ No further proceedings have been set at this time. (**Note:** Further proceedings may have been set previously. Refer to the docket sheet.)